

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DARRYL PHELPS,

Petitioner,

-v.-

SUPERINTENDENT, *Gouverneur  
Correctional Facility*,

Respondent.

20 Civ. 10352 (KPF)

**ORDER**

KATHERINE POLK FAILLA, District Judge:

The Court continues to receive letters from Mr. Phelps (*see* Dkt. #55), despite making it clear to him that this case is closed, and that this Court is unable to provide Mr. Phelps with any assistance or relief regarding his current incarceration or the charges underlying it (*see* Dkt. #46, 48, 54).

The Court hereby warns Mr. Phelps that future submissions in connection with this action will be met with a filing ban. *See Moates v. Barkley*, 147 F.3d 207, 208 (2d Cir. 1998) (“The unequivocal rule in this circuit is that the district court may not impose a filing injunction on a litigant *sua sponte* without providing the litigant with notice and an opportunity to be heard.”). If Mr. Phelps continues to file letters on the docket of this action, 20 Civ. 10352, the Court will enter an order, pursuant to the All Writs Act, to enjoin Mr. Phelps from further vexatious litigation. *See* 28 U.S.C. § 1651(a); *see also Smith v. Educ. People, Inc.*, No. 05-2971, 2008 WL 749564, at \*4 (2d Cir. Mar. 20, 2008) (summary order) (affirming the district court’s order “enjoining [*pro se* plaintiff] from further duplicative actions, motions, petitions,

or proceedings,” and concluding that “the district court acted within its discretion under the All Writs Act, to effectuate and protect its judgment and to prevent vexatious litigation” (internal citation omitted)).

The Clerk of Court is directed to send a copy of this Order to Mr. Phelps at the following address:

Darryl Phelps (23-B-1088)  
Elmira Corr. Fac.  
P.O. Box 500  
Elmira, NY 14902-0500

SO ORDERED.

Dated: June 17, 2024  
New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Faila".

---

KATHERINE POLK FAILLA  
United States District Judge